

REMARKS

No amendments are made to the claims herein. A listing of the currently pending claims is provided for the Examiner's convenience. Claims 1-11, 14-17 and 19-22 are presently pending. The following addresses the substance of the Office Action.

Obviousness

McGee in view of Rao and Dauthy

Claims 1, 16, 17 and 19-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McGee, H (1984 in On Food and Cooking, pp 170-172) in view of Rao, S.N. (1974 "Ananas the legendary Fruit" *Indian Horticulture, Agric Coll Bapatia Ap India* 19:19-21) and Dauthy, M.E. (1995 "Fruit and Vegetable Processing" FAO Agricultural Services Bulletin 119, Section 5.2 "Chemical Preservation). The Examiner has maintained the rejection of these claims due to a lack of experimental data establishing unexpected result of the present invention as compared to the prior art.

The Applicant submits herewith a Rule 132 Declaration by the inventors, which demonstrates unexpected results (i.e., better custard apple jam is obtained by performing the specific steps of the presently claimed processes as compared to the prior art). In contrast to the teachings of McGee, the Applicant has surprisingly discovered a specific process that overcomes the three characteristic problems of discoloration, development of bitterness and off-flavor. In particular, the Applicant has developed a process that involves a specific sequence of four steps including: (a) mixing a sweetening agent with custard apple pulp; (b) partially dehydrating the mixture of step (a) below the temperature of 55°C; (c) adding a syrup comprising sweetening agent, preservatives, setting agent and other food additives; and (d) boiling the mixture of step (c) at a temperature between 90-100°C and cooling the mixture to obtain the jam. Neither McGee nor Rao provide any reason to perform heating and addition of sweetening agent in the specified sequence of steps (a)-(d) and Dauthy was merely cited as teaching the use of sodium benzoate as a common preservative in foods.

Referring to the Rule 132 declaration, the Applicant has carried out experiments for preparing custard apple jam based on the teaching of McGee and Rao in comparison to the presently claimed process. The results obtained show that custard apple obtained by the process of presently claimed invention provides better result in terms of organoleptic properties when

compared to a jam obtained by process of McGee and Rao. In particular, referring to Item 5 of the Rule 132 declaration, the Applicants observed that a jam prepared by the presently claimed process (Jam 1) is very excellent in taste and there is neither bitterness nor off-flavor. In contrast, a jam prepared by the process of McGee and Rao (Jam 2) has an unacceptable taste, which contains both bitterness and off flavor. The unexpected improvement in these organoleptic properties in Jam 1 is attributed to the specific sequence of steps employed by the presently claimed process, including: (a) mixing a sweetening agent with custard apple pulp; (b) partially dehydrating the mixture of step (a) below the temperature of 55°C; (c) adding a syrup comprising sweetening agent, preservatives, setting agent and other food additives; and (d) boiling the mixture of step (c) at a temperature between 90-100°C and cooling the mixture to obtain the jam. Referring to Item 7 of the Rule 132 declaration, the Applicant notes that when pulp from mature, ripe custard apple fruits is heated to a temperature above 55°C, the product turns intensively bitter, has an off flavor and is discolored. Thus, the step of partially dehydrating pulp at a temperature of below 55°C, as recited in the presently claimed processes, is important to the production of a final product that is free of bitterness, off flavor and discoloration.

The evidence of unexpectedly superior results when using the presently claimed process, in direct comparison to the teachings of McGee and Rao, refutes any alleged obviousness in view of McGee and Rao. Accordingly, the presently claimed processes are not *prima facie* obvious, and the Applicant respectfully requests that the rejection be withdrawn.

McGee in view of Rao, Braman, Francis and Dauthy

Claims 2-11, 14 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McGee (*supra*) in view of Rao (*supra*), Braman, T.F. (1992 "Use of vacuum pan for fruit products" The American Food Journal 17: 9, 10, 26), Francis, F.J. (2000 in Encyclopedia of Food Science and Technology 2nd Ed pp. 1149-1153) and Dauthy(*supra*).

However, neither Braman nor Francis provides any additional information that would have led the skilled artisan to develop the process recited by Claim 1. Since Claims 2-11, 14 and 15 are either directly or indirectly dependent upon Claim 1, the arguments set forth above also apply. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection.

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No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

In view of Applicants' foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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